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*FBS*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/544,801	04/07/00	YAMAZAKI	S SEL 174
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MM91/0827  
 COOK ALEX MCFARRON MANZO CUMMINGS & MEHL  
 200 WEST ADAMS STREET SUITE 2850  
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EXAMINER

FLYNN, N	
ART UNIT	PAPER NUMBER

2826  
**DATE MAILED:** 08/27/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**BEST AVAILABLE COPY**

**Office Action Summary**

Application N .

09/527,437

Applicant(s)

YAMAZAKI ET AL.

Examiner

Nathan J. Flynn

Art Unit

2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on \_\_\_\_\_.
- 2a)  This action is FINAL.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) \_\_\_\_\_ is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims 1-35 are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some \* c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- 15)  Notice of References Cited (PTO-892)
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 19)  Notice of Informal Patent Application (PTO-152)
- 20)  Other:

## DETAILED ACTION

### *Election/Restrictions*

This application contains claims directed to the following patentably distinct species of the claimed invention: Embodiment 1 described on pages 10-31, Embodiment 2 described on pages 31-33, Embodiment 3 described on pages 33-34, Embodiment 4 described on pages 34-35, Embodiment 5 described on pages 35-36, Embodiment 6 described on pages 36-37, Embodiment 7 described on pages 37-38, Embodiment 8 described on pages 38-40, Embodiment 9 described on pages 40-41, Embodiment 10 described on pages 41-42, Embodiment 11 described on pages 42-43, Embodiment 12 described on pages 43-44, Embodiment 13 described on pages 44-45, Embodiment 14 described on pages 45-46, Embodiment 15 described on pages 46-48, Embodiment 16 described on page 48, Embodiment 17 described on pages 48-49, Embodiment 18 described on pages 49-51, Embodiment 19 described on pages 51-53, Embodiment 20 described on pages 53-56, Embodiment 21 described on pages 53-59, Embodiment 22 described on pages 59-61, Embodiment 23 described on pages 61-63, Embodiment 24 described on pages 63-64, Embodiment 25 described on page 64, Embodiment 26 described on pages 64-65, Embodiment 27 described on pages 65-66, Embodiment 28 described on pages 66-67.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Flynn whose telephone number is 703-308-6601. The examiner can normally be reached on MON-FRI 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 701-308-6601. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5389 for regular communications and 703-305-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

NJF  
August 24, 2001

  
Nathan Flynn  
Primary Examiner